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## CITY OF DESERT HOT SPRINGS, and TUAN-ANH VU

**UNITED STATES DISTRICT COURT**

## **CENTRAL DISTRICT OF CALIFORNIA**

JOSEPH MINER, an individual,

Plaintiff,

vs.

CITY OF DESERT HOT SPRINGS, a  
municipal corporation; et al.,

## Defendants.

Case No. 8:24-cv-02793-CAS-E  
Related Case No: 8:22-cv-01043-CAS-  
MAA

**DEFENDANTS' OBJECTIONS TO  
EVIDENCE SUBMITTED BY  
PLAINTIFF IN OPPOSITION TO  
DEFENDANTS' MOTION TO DISMISS  
FIRST AMENDED COMPLAINT AND  
(PROPOSED) ORDER**

Date: Vacated

Time: Vacated

Dept: 8D

Complaint filed: December 23, 2024

Charles F. Eick, United States Magistrate  
Judge

Defendants, CITY OF DESERT HOT SPRINGS, and TUAN-ANH VU (the “Defendants”) hereby object to the following evidence submitted by Plaintiff in Opposition to Defendants’ Motion to Dismiss First Amended Complaint, via the

1 Declaration of Joseph Miner, as follows:

2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 MATTER OBJECTED TO	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 GROUNDS OF OBJECTION	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 RULING
1. <b>“EXHIBIT 1 - Defendant Vu</b> attempts to again evade service. The registered process server attempted to serve defendant who at the city. Assistant city clerk Dan McVey a stated to the process server McVey had authority to accept service for defendant Vu. In an abundance of caution the process server visited the City three times pursuant to California law and legally subserved defendant Vu at the City offices. <b>On Thursday</b> <b>March 6, 2025 I emailed</b> <b>defendant Vu the complaint to</b> <b>two email addresses. I received</b> <b>an email in return from Mario</b> <b>Alfaro who states he represents</b> <b>defendant Vu and he will</b> <b>accept service via email.</b> <b>Defendant Vu was served at</b> <b>the City pursuant to California</b> <b>law by US postal mail, and by</b> <b>email. See both attached</b>	Objection. Immaterial and irrelevant. Lack of foundation. Hearsay. “Ordinarily, a motion to dismiss under Fed.R.Civ.P. 12(b)(6) is addressed to the four corners of the complaint without consideration of other documents or facts outside of the complaint.” <i>Haskell v.</i> <i>Time, Inc.</i> , 857 F.Supp. 1392, 1396 (E.D. Cal. 1994). A complaint is deemed to include any documents attached as exhibits and any documents incorporated into the complaint by reference. <i>Federal Rules of</i> <i>Civil Procedure</i> , Rule 10(c). The Court in <i>Alexander v.</i> <i>Kujok</i> , 158 F.Supp.3d 1012, 1022 (E.D. Cal. 2016) found that an argument made based on a party’s supporting declaration stems from matters	<input type="checkbox"/> sustained <input type="checkbox"/> overruled

1 <b>exhibit #1 and document #19</b> 2 <b>filed with the court. Mr. Vu</b> 3 <b>has been served pursuant to</b> 4 <b>California law. Defendant Vu</b> 5 <b>used the same evasive tactics as</b> 6 <b>an Officer of the City and an</b> 7 <b>Officer of the court in stayed</b> 8 <b>case 8:22-cv-01043-CAS-MAA.</b> 9 (Declaration of Joseph Miner, 10 ¶6, Page 32, Lines 13 – 23.)	<p>outside the pleading and therefore should not be considered in the context of a motion to dismiss.</p> <p>The First Amended Complaint does not include any of these materials.</p> <p>Unsuccessful service attempts are immaterial to whether service was properly effectuated.</p> <p>These materials are not sufficiently authenticated.</p> <p>Facts not in evidence.</p> <p>Speculative conjecture.</p>	
19 2. “ <b>EXHIBIT #2</b> - Attached is 20 the judgment of dismissal case 21 CVPS2106001. This is the case 22 regarding the failure to issue 23 notice, the un-litigated citation, 24 the failure to provide an 25 administrative hearing. Nothing 26 has been adjudicated.” 27 (Declaration of Joseph Miner, 28 ¶7, Page 32, Lines 24 – 26.)	Objection. Immaterial and irrelevant. Lack of foundation. These documents are beyond the four corners of Plaintiff’s First Amended Complaint. (See <i>Haskell v. Time, Inc.</i> , 857 F.Supp. 1392, 1396 (E.D. Cal. 1994); <i>Alexander v. Kujok</i> , 158 F.Supp.3d 1012, 1022 (E.D. Cal. 2016).) Plaintiff’s First	<input type="checkbox"/> sustained <input type="checkbox"/> overruled

1	Amended Complaint does not include any of these purported relevant materials.	
2	These materials are not sufficiently authenticated.	
3	Facts not in evidence.	
4	Speculative conjecture.	
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9	3. “EXHIBIT #3 - England	<input type="checkbox"/> sustained
10	Reservation case CVPS2106001	<input type="checkbox"/> overruled
11	constitutional claims.”	
12	(Declaration of Joseph Miner,	
13	¶8, Page 32, Line 27.)	
14	Objection. Immaterial and	
15	irrelevant. Lack of foundation.	
16	These documents are beyond	
17	the four corners of Plaintiff’s	
18	First Amended Complaint.	
19	(See <i>Haskell v. Time, Inc.</i> , 857	
20	F.Supp. 1392, 1396 (E.D. Cal.	
21	1994); <i>Alexander v. Kujok</i> , 158	
22	F.Supp.3d 1012, 1022 (E.D.	
23	Cal. 2016). Plaintiff’s First	
24	Amended Complaint does not	
25	include any of these purported	
26	relevant materials.	
27	These materials are not	
28	sufficiently authenticated.	
	Facts not in evidence.	
	Speculative conjecture.	

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	4. " <b>EXHIBIT #4</b> - Affirmative Defenses case CVPS2106001 constitutional defenses. (Declaration of Joseph Miner, ¶9, Page 32, Line 28.)	Objection. Immaterial and irrelevant. Lack of foundation. These documents are beyond the four corners of Plaintiff's First Amended Complaint. (See <i>Haskell v. Time, Inc.</i> , 857 F.Supp. 1392, 1396 (E.D. Cal. 1994); <i>Alexander v. Kujok</i> , 158 F.Supp.3d 1012, 1022 (E.D. Cal. 2016).) Plaintiff's First Amended Complaint does not include any of these purported relevant materials.  These materials are not sufficiently authenticated. Facts not in evidence. Speculative conjecture.	<input type="checkbox"/> sustained <input type="checkbox"/> overruled
19 20 21 22 23 24 25 26 27 28	5. " <b>EXHIBIT #5</b> - Letter to Luke Rainy city manager regarding the abusive treatment by the code officer. (This is where the code issues began) included as evidence." (Declaration of Joseph Miner, ¶9, Page 33, Lines 1 - 2.)	Objection. Immaterial and irrelevant. Lack of foundation. These documents are beyond the four corners of Plaintiff's First Amended Complaint. (See <i>Haskell v. Time, Inc.</i> , 857 F.Supp. 1392, 1396 (E.D. Cal. 1994); <i>Alexander v. Kujok</i> , 158 F.Supp.3d 1012, 1022 (E.D. Cal. 2016).) Plaintiff's First	<input type="checkbox"/> sustained <input type="checkbox"/> overruled

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28

1 and provides no filed stamped  
2 copies upon submission of  
3 documents electronically).”  
4 (Declaration of Joseph Miner,  
5 ¶9, Page 33, Lines 3 - 10.)

6  
7 IT IS SO ORDERED,  
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9 Dated: \_\_\_\_\_, 2025  
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11 By: \_\_\_\_\_  
12 Charles F. Eick  
13 United States Magistrate Judge

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22 10595 - Joseph Miner v. Christina New...05-01-2021/PLEADINGS/NEW COMPLAINT/MOTION TO DISMISS NEW FAC/Objections to Evidence and  
Order.doc  
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## CERTIFICATE OF SERVICE

I hereby certify that on May 7, 2025, I electronically filed the foregoing  
**DEFENDANTS' OBJECTIONS TO EVIDENCE SUBMITTED BY**  
**PLAINTIFF IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**  
**FIRST AMENDED COMPLAINT AND (PROPOSED) ORDER** with the Clerk  
of the Court using the CM/ECF system which will send notification of such filing to  
the ECF registrants at the email addresses indicated on the attached below:

Joseph Miner  
P.O. Box 11650  
Costa Mesa, CA 92627  
Telephone: (949) 903-5051  
Email: [josephminer@gmail.com](mailto:josephminer@gmail.com)  
In Pro Se, JOSEPH MINER

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 7, 2025, at Riverside, California.

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/s/  
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